IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 140 OF 1990

State of Maharashtra. ... Appellant.

Versus.

Smt.Yamunabai Shivram Patil. ... Respondent.

Shri S.N.Gawade, A.G.P.for the Appellant.

None for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 8th January, 2007.

ORAL JUDGMENT.

1. Heard the learned Assistant Government Pleader for the State. The challenge in this First Appeal is to the judgment and award dated 31st March 1989 passed by the learned Civil Judge, Senior Division, Raigad at Alibag in Land Acquisition Reference No.54 of 1987. The Respondent is the Claimant in the reference under section 18 of the Land Acquisition Act 1894 (hereinafter referred to as "the said Act of 1894"). The acquisition is in respect of a land admeasuring 13,330 sq.meters situated at village Kamothe, Taluka Panvel, District Raigad. The notification under section 4 of the said

Act of 1894 in respect of the acquired land was issued on 3rd February 1970. The Award was made under section 11 of the said Act of 1894 on 22nd August 1986. The Special Land Acquisition Officer offered compensation at the market rate of Rs.3/- per sq.meter by the said Award. The Application under section 18 of the said Act of 1894 was filed by the Respondent seeking enhancement in the market value. The claim for market value in the reference was Rs.15/- per sq.meter. By the impugned Judgment and Award, the learned trial Judge has fixed the market value at Rs.14/- per sq.meter and has granted statutory benefits to the Appellant.

2. The learned A.G.P. appearing for the Appellant submitted that no evidence was led by the Respondents to justify the fixation of the market value at the rate of Rs.14/- per sq.meter. He submitted that considering the location of the land which is the subject matter of the reference, the market value fixed is on the higher side.

3. My attention has been invited to a decision of the Division Bench of this Court dated 25th/26th February 1993 in First Appeal No.754 of 1984 (Nama Padu Hudar v/s. State of Maharashtra) and other connected First Appeals. In the said decision, the Division Bench

dealt with the Appeals arising out of the Awards made under section 18 of the said Act of 1894 relating to the various lands acquired from the villages Panvel and Kamothe, Taluka Panvel, District Raigad. The lands which were the subject matter of the said Appeals were notified on 3rd February 1970 under section 4 of the said Act of 1894. The land subject matter of the present Appeal was acquired for the public purpose of development of the satellite city of Navi Mumbai. The purpose of acquisition of the lands which were the subject matter of the First Appeals before the Division Bench was the same. The Division Bench considered the location of the acquired lands with reference to its distance from the Bombay Pune National Highway. The Division Bench divided the lands subject matter of the said Appeals into five categories. One of the five categories was of the lands situated at a distance between 800 meters and 2200 meters from the Bombay Pune National Highway. The Division Bench fixed the market value at the rate of Rs.20/- per square meter. The said decision of the Division Bench has attained finality. The said decision of the Division Bench was expressly approved by the Apex Court in its judgment and order dated 6th March 2006 passed in Civil Appeal 1557 of 2006 (Shantadevi Hariram Ruparel v/s. the Land Acquisition

Officer and another). The Apex Court approved the method adopted by the Division Bench of dividing the lands into five different categories. In my view there is no reason why the said decision of the Division Bench should not be followed in the present Appeal.

4. Coming to the facts of the case in the present Appeal, the Respondent/Claimant examined one Jeevan Narayan Kulkarni, an expert valuer as a witness. The report submitted by the said expert was admitted in evidence at Exh.18. On the basis of the said report, the learned trial Judge has observed in the impugned Judgment that the highway is at a distance of one kilometer (1000 meters) from the acquired land. As stated earlier, the Division Bench in the case of Nama Padu Hudar (supra) has awarded market value of Rs.20/- per sq.meter for lands in the same village which are upto a distance of 2200 meters from the Highway. In the present case the market value of Rs.14/- per sq.meter has been awarded. Thus there is nothing wrong with the impugned Judgment and Award. So far as the grant of statutory benefits is concerned, there is no dispute about the entitlement of the Respondent as the award under section 11 of the said Act of 1894 has been made on 22nd August 1986.

5. Hence the following order is passed:

(i) The Appeal is dismissed with no order as to costs.

(ii) The interim relief granted stands vacated.

Judge.